

[ADMINISTRATIVE ORDER NO. 153, December 16, 1968]

CONSIDERING DISTRICT JUDGE GAUDENCIO CLORIBEL OF THE COURT OF FIRST INSTANCE OF MANILA AS RESIGNED FROM OFFICE

This is an administrative case before the Supreme Court (Administrative Case No. 121-J), filed by the Secretary of Justice against the Honorable Gaudencio Cloribel, District Judge of the Court of First Instance of Manila, for serious misconduct and incompetence or inefficiency. Respondent judge, upon petition of complainant and as recommended by the Supreme Court, was suspended under Administrative Order No. 99 dated January 5, 1968, pending investigation of the charges. The case was thereafter investigated by a Justice of the Court of Appeals, who submitted his report and recommendation, and reviewed by the Supreme Court, which submitted to the President its report and recommendation, as embodied in the Per Curiam Resolution promulgated on November 12, 1968.

The charges against Respondent Judge are as follows:

1. That, in thirty-seven (37) specified cases, Respondent approved bail bonds submitted by bonding companies without the initial thereon of the Clerk of Court, attesting to his having verified that the company offering the bond has submitted its monthly statements of assets and liabilities and has no pending obligations to the Court in any amount, on account of unsatisfied execution upon its bonds, as required in a resolution of the Judges of First Instance of Manila.

Respondent, however, denies that the resolution of the Judges of First Instance of Manila requires prior verification and initialing of a bond by the Clerk of Court before a Judge may approve the same.

2. That in twelve (12) cases Respondent approved bail bonds even before the corresponding informations had been filed in court. This is not denied by Respondent, who justifies his act by maintaining that a detained person is entitled to bail even if not yet formally charged with a crime.

3. That Respondent approved bail bonds in six (6) cases in amounts less than those recommended by the Fiscal in the respective information. This is also admitted by Respondent, who claims that, when he approved the bail bonds in question, he was motivated by no less than an ardent desire to give meaning to the constitutional right to bail.

4. That, in nine (9) cases, Respondent approved bail bonds although these cases were assigned to the Judges of other branches of the Court of First Instance of Manila, fixing bail in amounts much lower than those fixed by the Judges to whom the cases had been assigned; and that the approved bail bonds in some cases were issued by surety companies which were black-listed for failure to satisfy writs of

execution upon other bonds issued by them.

Respondent admits that he approved bail bonds in cases assigned to other judges but alleges having done so, either because he was not aware at the time that these cases were already assigned to other judges or because such judges were absent or not readily available. He claimed that only two Judges of the Court of First Instance of Manila resided in this City and that, having acted upon the bail bonds at night, he had invariably been informed by the relatives of the accused that the other judges were not available. On the other hand, Respondent denies having approved any bond issued by a surety company not authorized to conduct business with the courts.

5. That, in twenty-one (21) cases, Respondent issued injunctions against the Commissioner of Immigration at the instance of Chinese nationals to prevent the confiscation of cash bonds filed in their behalf or prevent them from being arrested or expelled from the country.

6. That, in forty-five (45) cases, Respondent indiscriminately and illegally issued ex-parte writs of preliminary injunction and restraining orders although such ex-parte proceedings are discouraged by judicial ethics.

In answer to these two charges, Respondent justifies the injunctions and restraining orders on the ground that they were necessary to preserve the rights of the petitioners and prevent their cases from becoming moot; and that the same remedy had been granted by other judges in the Court of First Instance of Manila in similar cases with practically the same frequency, so that his errors, if any, in granting preliminary injunctions were merely errors of judgment not indicating misconduct or inefficiency.

7. That Respondent was first censured and later found guilty of contempt and fined by the Supreme Court for open defiance, placing Respondent's office in public disrepute and casting a very grave doubt on his fitness to stay any longer on the bench.

In his defense, Respondent pleads that he acted in good faith, claiming that he had no willful intent to disobey the Supreme Court and that he was misled by the Office of the Solicitor General into doing so.

Reviewing the evidence, the Supreme Court finds that Respondent has satisfactorily explained his actuations as referred to in the first three charges. I agree that he should be exonerated from these charges. His approval of bail bonds not verified by the Clerk of Court was in order, there being no requirement of such verification either by the practice or express agreement of the Judges of the Court of First Instance of Manila (Resolution, page 5).

Neither can Respondent be faulted for approving bail bonds of persons against whom the corresponding informations had not yet been filed, they being already under arrest (Resolution, pages 5-6). Equally in order was his approval of bail in amounts less than those recommended by the Fiscal, it not having been shown that such amounts were unreasonable or that Respondent had otherwise abused his discretion (Resolution, page 6).

With respect, however, to the other charges, I concur with the findings of the Supreme Court, unanimously approved by the Chief Justice and eight Associate Justices, in its Per Curiam Resolution, declaring him guilty of such charges, as set forth on pages 25 to 32, inclusive, and quoted as follows:

"After a dispassionate consideration of the foregoing evidence, this Court has arrived at the following conclusions:

"1. Respondent has transcended the bounds of sound judicial discretion in allowing surety companies to abuse his apparent laxity in approving bail bonds on week-ends and holidays and/or at nighttime, resulting in his approval of bail bonds subscribed by bonding companies which had been previously black-listed, and, as such, were no longer qualified to conduct business with the Court of First Instance of Manila as previously agreed upon by its Judges. Certainly, a person's right to bail in proper cases must be recognized as soon as he is arrested; but this is not incompatible with that care, diligence, and precaution which Judges acting upon bail bonds are in duty bound to take, to be sure that the surety companies offering the bonds are solvent. Such a task should not be taken lightly. The only purpose of bail is to place the person of the accused within the court's jurisdiction and to guarantee his appearance when required, and it is the duty of the Judge approving the bail bond to make sure to that the sureties are responsible and solvent in order the said guaranty should be effective; otherwise, should bail bonds prove to be worthless or useless, as in the fourteen (14) cases above specified, not only shall public interest be affected but a downright mockery of the Rules be engendered. Respondent's acts in those cases speak loudly of his negligence, and show a plain disregard of the interest of the Government, which was not at all difficult to avoid had he so minded. And to be sure, more caution should be exercised by Judges to avoid such occurrence, if We hope to keep the faith of the people in the courts of justice.

"2. The interference of Respondent in cases already assigned to the salas of other Judges of the Court of First Instance of Manila falls short of that circumspection and delicadeza that are reasonably expected of a judicial officer holding the esteemed and enviable position of judge of a court of first instance. There should be no disagreement that the fixing of the amount of bail in a given case is discretionary on the part of the judge taking cognizance thereof. But once an amount had been fixed by the said judge after a consideration of the nature and gravity of the offense charged, it would be the height of indiscretion on the part of another judge to modify it; for such would be tantamount to a substitution of the latter's own discretion to that of the other, which is bound to court the resentment of the judge who had previously fixed the amount of bail. Respondent, of course, pleads that when he fixed and approved the bail bonds in the cases in question, he was not aware that said cases were already assigned to the salas of other judges. But this can only mean that he never bothered to ask the persons presenting the bonds before him about the status of the cases wherein the said bonds were offered and thereby allowed his liberality and good faith to be abused. And even were we to assume for the moment, that Respondent had acted in good